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THIRD DEFENDANT PLEADS GUILTY IN PROSECUTION OF MAJOR INTERNATIONAL PORNOGRAPHIC SPAM OPERATION

WASHINGTON, D.C. – A New Hampshire woman has pleaded guilty to conspiring to violate the CAN-SPAM Act of 2003 – a federal law designed to crack down on the transmission of bulk, unsolicited commercial electronic mail messages – Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Paul K. Charlton of the District of Arizona announced today.

The guilty plea entered by Jennifer R. Clason, 33, of Raymond, New Hampshire, is the third-ever conviction related to the transmission of obscene e-mails. The plea was entered today at federal court in Phoenix, Arizona.

Clason pleaded guilty to two spamming counts under the CAN-SPAM Act and one count of criminal conspiracy. She agreed to forfeit money obtained in the commission of these crimes and faces a maximum penalty of five years in prison for each of the spamming and criminal conspiracy offenses. Sentencing is scheduled for June 5, 2006 before U.S. District Court Judge Roger G. Strand.

According to the plea agreement, Clason conspired with two individuals in the transmission of numerous spam e-mails containing graphic pornographic images: Jeffrey A. Kilbride, 39, of Venice, California, and James R. Schaffer, 39, of Paradise Valley, Arizona. The plea agreement states that Clason created and transmitted the spam e-mails on behalf of Kilbride and Schaffer, at the direction of Schaffer.

On Aug. 25, 2005, a nine-count indictment was returned against Kilbride, Schaffer, and Clason by a federal grand jury in Phoenix, charging all three defendants with two counts of fraud and related activity in connection with electronic mail under the CAN-SPAM Act and one count of criminal conspiracy. The indictment also charged Kilbride and Schaffer with two counts of interstate transportation of obscene material using an interactive computer service, two counts of interstate transportation of obscene material for the purpose of sale or distribution, and one count of money laundering. Schaffer was also charged with one count of operating three pornographic Internet websites without including required statements describing the location of identification and other records for the performers portrayed in the Web sites, as is required by federal law. The trial of Kilbride and Schaffer is scheduled for June 6, 2006.

According to the indictment, Clason, Kilbride, and Schaffer conspired to engage in the business of sending spam e-mails for their own personal gain, benefit, profit and advantage. America Online, Inc. received more than 600,000 complaints between Jan. 30, 2004 and June 9, 2004 from its users regarding spam e-mails that had allegedly been sent by the defendants' spamming operation.

The indictment further alleged that the spam e-mails sent by the defendants advertised pornographic Internet Web sites in order to earn commissions for directing Internet traffic to these Web sites. It is alleged that graphic pornographic images were embedded in each of the defendants' e-mails. Four counts of the indictment charged felony obscenity offenses for such transmission of hard-core pornographic images of adults engaged in explicit sexual conduct, which meet the Supreme Court's test for adult obscenity.

According to the indictment, the spam e-mails were sent in a manner that would impair the ability of recipients, Internet service providers processing the e-mails on behalf of recipients, and law enforcement agencies to identify, locate or respond to the senders. The indictment further alleged that Kilbride and Schaffer also created and utilized overseas companies named The Compliance Company and Ganymede Marketing to conceal and disguise their activities. According to the indictment, Kilbride and Schaffer also utilized overseas bank accounts in Mauritius and the Isle of Man (a British Crown dependency) for the purpose of laundering and distributing the proceeds of the spamming operation.

Two other individuals, Andrew D. Ellifson, 31, of Scottsdale, Arizona, and Kirk F. Rogers, 43, of Manhattan Beach, California, have already pleaded guilty to charges under the CAN-SPAM Act related to this spamming operation. Ellifson and Rogers are scheduled to be sentenced on June 5, 2006 in Phoenix.

This case is being prosecuted by Trial Attorney William A. Hall, Jr., of the Child Exploitation and Obscenity Section (CEOS) of Criminal Division at the U.S. Department of Justice, Washington, D.C., and Assistant U.S. Attorneys John J. Tuchi and John R. Lopez, IV, of the District of Arizona. It was investigated by the Phoenix Field Office of the Federal Bureau of Investigation and CEOS's High Tech Investigative Unit.

The charges contained in the Aug. 25, 2005 indictment are allegations only and Kilbride and Schaffer are presumed innocent until and unless convicted at trial.

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